

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE:)	Case No.: 14-14888
)	
CHARLES TIMOTHY MURPHY,)	Adversary Proceeding No. 14-1202
)	
Debtor,)	Chapter 7
)	
_____)	Chief Judge Pat E. Morgenstern-Clarren
)	
CHARLES TIMOTHY MURPHY,)	
)	
Plaintiff,)	<u>ANSWER OF THE UNITED STATES ON</u>
)	<u>BEHALF OF THE U.S. DEPARTMENT</u>
v.)	<u>OF EDUCATION</u>
)	
U.S. DEPARTMENT OF EDUCATION,)	
et al.,)	
)	
Defendants.)	

NOW COMES the United States of America, on behalf of its agency, the U.S. Department of Education, by its attorney, Steven M. Dettelbach, United States Attorney for the Northern District of Ohio, through Erin E. Brizius, Assistant U.S. Attorney, and for its answer to the Debtor's Complaint to Determine Dischargeability of Student Loans states as follows:

FIRST DEFENSE

The United States asserts the defenses of insufficiency of process and/or insufficiency of service of process. The United States notes that neither the United States Attorney for the Northern District of Ohio nor the Attorney General of the United States was served with copies of the summons and complaint as required under Bankruptcy Rule 7004.

SECOND DEFENSE

Plaintiff's Complaint fails to state a claim upon which relief can be granted. F.R.Civ.P. 12(b)(6) (made applicable in adversary proceeding pursuant to Bankruptcy Rule 7012).

THIRD DEFENSE

On behalf of the defendant U.S. Department of Education, the United States admits, denies, and alleges as follows:

1. Admits that the Court has subject matter jurisdiction, but denies that the Court has jurisdiction over the Defendant, U.S. Department of Education, due to insufficiency of process and/or insufficiency of services of process.
2. Admits the allegations of paragraph 2 of the Complaint.
3. Admits the allegations of paragraph 3 of the Complaint.
4. Admits that the Plaintiff's Chapter 7 proceeding was filed on July 30, 2014; denies the remainder of paragraph 4 for lack of knowledge or information sufficient to form a belief as to the truth of the allegations.
5. Denies the allegations of paragraph 5 for lack of knowledge or information sufficient to form a belief as to the truth of the allegations.
6. Admits that Plaintiff is indebted to the U.S. Department of Education; denies the amount of the indebtedness alleged in paragraph 6; alleges that, as of November 12, 2014, Plaintiff was indebted to the U.S. Department of Education in the amount of \$130,579.00, comprised of principal in the amount of \$116,880.62 and \$13,698.93 in accrued interest.
7. Denies the allegations of paragraph 7 of the Complaint.

WHEREFORE the United States prays that the Plaintiff's Complaint be dismissed due to insufficiency of process and/or insufficiency of service of process or, in the alternative, that Plaintiff's student loan debt to the U.S. Department of Education be deemed nondischargeable.

Respectfully submitted,

STEVEN M. DETTELBACH
United States Attorney

By: /s/ Erin E. Brizius

Erin E. Brizius (OH: 0091364)
Assistant United States Attorney
United States Court House
801 West Superior Avenue, Suite 400
Cleveland, OH 44113
(216) 622-3670
(216) 522-4982 (facsimile)
Erin.E.Brizius2@usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that, on **December 15, 2014**, a true and correct copy of the foregoing *ANSWER OF THE UNITED STATES ON BEHALF OF THE U.S. DEPARTMENT OF EDUCATION* was served:

Via the court's Electronic Case Filing System on the United States Trustee and these entities and individuals who are listed on the court's Electronic Mail Notice List:

Frederick S. Coombs, on behalf of Defendant Texas Guaranteed Student Loan Corporation, at fcoombs@hhmlaw.com

Wesley Alton Johnston, on behalf of Plaintiff Charles Timothy Murphy, at wesleyajohnston@gmail.com

I further certify that, on December 15, 2014 or on the next business day thereafter, a copy of the foregoing *ANSWER OF THE UNITED STATES ON BEHALF OF THE U.S. DEPARTMENT OF EDUCATION* was served by regular U.S. mail, postage prepaid, on:

SALLIE MAE
P.O. BOX 9500
WILKES-BARRE, PA 18773-9500

/s/ Erin E. Brizius

Erin E. Brizius (OH: 0091364)
Assistant United States Attorney
United States Court House
801 West Superior Avenue, Suite 400
Cleveland, OH 44113
(216) 622-3670
(216) 522-4982 (facsimile)
Erin.E.Brizius2@usdoj.gov